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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STATE OF UTAH, *et. al.*,

Plaintiffs,

v.

GOOGLE LLC, *et. al.*,

Defendants.

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) Case No. 3:21-cv-5227-JD
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) **MOTION TO FILE**
) **UNDER SEAL IN PART**
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Pursuant to N.D. Cal. Civil L.R. 79-5 and 7-11, Plaintiffs the State of Utah and its co-plaintiff States, Commonwealths, and Districts (collectively the “Plaintiff States”) respectfully move the Court for an Order allowing the sealing of portions of the Complaint filed in this matter. As set forth in the accompanying Declaration of David N. Sonnenreich, certain portions of the Complaint disclose information obtained from Defendant Google LLC and/or its co-defendant

1 affiliates (collectively “Google”) through civil investigative demands during the Plaintiff States’
 2 investigation of Google. The Plaintiff States and Google have entered into a Confidentiality
 3 Agreement dated August 17, 2020 (the “Utah-Google Confidentiality Agreement”) under which
 4 the Plaintiff States agreed to hold as confidential certain materials and documents produced by
 5 Google to the Plaintiff States and to other enforcement authorities, including the U.S. Department
 6 of Justice (“DOJ”). Under the terms of the Utah-Google Confidentiality Agreement, the parties
 7 agreed that Google could designate certain materials provided to the Plaintiff States as
 8 “Confidential” if “Google reasonably believes that [the materials] contain highly sensitive
 9 information, which if Google were to so designate would constitute trade secrets, commercial
 10 information or nonindividual financial information” [See Declaration David N. Sonnenreich
 11 (“Sonnenreich Decl.”) ¶¶ 3-5 at 2, & Exhibit “A”] With respect to any materials produced by
 12 Google and designated as “Confidential,” the Plaintiff States have agreed that “unless authorized
 13 by a court of competent jurisdiction or by Google in writing, no information designated as
 14 Confidential shall be shown or disclosed to any person or entity not bound by this Agreement . . .
 15 .” [See Sonnenreich Decl. ¶¶ 6-7, at 2 & Exhibit “A”] Moreover, materials received from Google
 16 that had been previously produced by Google to the DOJ are to be treated by the Plaintiff States as
 17 “Confidential” under the Utah-Google Confidentiality Agreement. [See Sonnenreich Decl. ¶ 5, at
 18 2 & Exhibit “A”] Invoking these terms, Google has designated many internal Google records
 19 produced to the Plaintiff States as “Confidential.”

20 In bringing this Motion, the Plaintiff States are mindful of the standard that must be met for
 21 sealing material, *i.e.*, that such material must be “privileged, protectable as a trade secret or
 22 otherwise entitled to protection under the law.” N.D. Cal. L.R. 79-5(b). The Plaintiff States also
 23 recognize that “[r]eference to a stipulation or protective order that allows a party to designate
 24 certain documents as confidential is not sufficient to establish that a document, or portions thereof,
 25 are sealable.” N.D. Cal. L.R. 79-5(d)(1)(A). Nevertheless, because the Plaintiff States are
 26 contractually bound not to disclose publicly any materials (or portions of them) designated by
 27 Google as “Confidential” under the Utah-Google Confidentiality Agreement, the Plaintiff States
 28 have filed this Motion in order to allow the Court to consider whether those portions of the

1 Complaint designated for redaction because they have been identified by Google as “Confidential”
2 should be redacted and the Complaint should be filed under seal. In so filing, the Plaintiff States
3 are not asserting that any of the proposed redacted portions of the Complaint qualify under the
4 standards referenced above. In responding to this Motion, Google will have the opportunity and
5 burden to establish that sealing a redacted version of the Complaint from public access is justified,
6 and that the individual redactions are appropriate.

7 The Plaintiff States have submitted concurrently with this Motion the required Proposed
8 Order, along with redacted and unredacted versions of the Complaint, pursuant to N.D. Cal. L.R.
9 79-5(d). This Motion has also been served, along with the supporting Declaration, to Google’s
10 counsel as required by N.D. Cal. L.R. 79-5(e), and a proof of such service has been e-filed with
11 the Court.

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13 Respectfully submitted this 29th day of July, 2021.

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16 By: s/David Sonnenreich
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